

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	:	Bankruptcy No. 19-22280-CMB
	:	
MARK PANCARI, and	:	
CATHLEEN PANCARI,	:	
Debtor(s).	:	Chapter 13
	:	
MARK PANCARI, and	:	
CATHLEEN PANCARI,	:	
Movant(s),	:	
	:	
vs.	:	
	:	
CREDITO REAL USA FINANCE	:	
LLC, PRESTIGE AUTO MALL, and:	:	
RONDA WINNECOUR, Trustee	:	
Respondents.	:	

**MOTION FOR CONTEMPT FOR FAILING TO FOLLOW COURT ORDER**

COMES NOW, Mark Pancari and Cathleen Pancari (hereinafter referred to as the “Movants”), by and through their attorney, Joseph F. Nicotero, Esquire, and moves this Court to enter an Order finding the Respondents, Credito Real USA Finance LLC. (hereinafter referred to as “Credito”), in contempt for failure to follow the Court Order entered October 7, 2020, assigning the following reasons therefore:

1. Movants, Mark Pancari and Cathleen Pancari filed a voluntary petition for relief under Chapter 13 of Title 11 of the United State Code on June 6, 2019.
2. This matter is a core proceeding relative to the debtor’s bankruptcy.
3. On August 17, 2020, at Docket Number 81, this Court issued an Order granting Movants the ability to finance a vehicle through an amended plan. In that Order, it is required that all payments on the vehicle be made through the amended plan.

4. Movants provided the Court Order to Respondent Prestige Auto Mall and subsequently signed documents at that dealership to purchase a vehicle. The financing was placed by Prestige Auto Mall with Credito. After taking possession of the vehicle, Movants filed a Report of Financing on September 9, 2020, at Docket Number 85. On September 21, 2020, Movants filed an Amended Plan incorporating monthly payments for the vehicle.

5. Respondent Prestige Auto Mall later contacted Movants and demanded return of the vehicle because Respondent Credito had refused to tender payment to Prestige Auto Mall. The reason given was that Credito would not accept payments through the Plan as required by the August 17, 2020 Order approving financing.

6. On September 28, 2020, the Movants filed an Emergency Motion to Compel Enforcement of Court Order, requesting this Court to enter an Order compelling Credito to accept payments through the Amended Plan. This Court entered that Order on October 7, 2020, at Docket Number 108. The Motion and Order were served upon both Respondents. Neither Respondent appeared nor did they appeal the Order.

7. On January 20, 2021, Owen Katz, Esquire, from the Chapter 13 Trustee's office, forwarded an email to Scott R. Lowden, Esquire asking that he ascertain why Credito was still returning checks from the Trustee.

8. Movants are presently unable to use the vehicle, as its title is not clear. They have made steady payments to the Trustee since the filing of this bankruptcy. The Movant's car payments are presently being held on reserve by the Trustee.

WHEREFORE, the Movants pray that this Court will enter an Order:

- a. Declaring that Respondent Credito Real USA Finance is to accept payments through the Amended Plan; and
- b. Declaring the that Respondent Credito Real USA Finance is guilty of civil contempt for failing to follow the Order entered by this Court and refusing to accept the payments submitted by Movant through the Amended Plan in accordance to this Court's August 17, 2020 Order at docket number 81 and subsequent Order dated October 7, 2020 at docket number 108; and
- c. Awarding the Movant compensatory and punitive damages, plus attorney's fees and costs for contempt of Court; and
- d. Granting such additional relief as it deems necessary or proper

Respectfully Submitted,

March 15, 2020  
Date

/s/ Joseph F. Nicotero  
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